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REVENUE DEPARTMENT

JUL 30 1985

Honorable Charles H. Crim
Tax Assessor, Jefferson County
Room 106, Courthouse
Birmingham, AL 35263

Exemptions - Ad Valorem Taxes

Whether display houses on premises of manufacturer are exempt from taxation as "stocks of goods, wares, and merchandise" constitutes question of fact to be determined by tax assessor.

Such display houses are exempt for one year as "manufactured articles."

Dear Mr. Crim:

In your request for an opinion you state that a local builder of manufactured houses keeps several houses on his property for display purposes in order to promote sales of his product. The houses are complete in almost every way except that they are not connected to any plumbing, gas, water, etc., although some of them have temporary electrical hookups. The display houses are generally sold and moved to a permanent location every two or three years. The builder carries these display houses on his books as inventory. You ask two questions:

1. Are the model houses used as displays for the builder of manufactured homes taxable?
2. If taxable, should the houses be taxed as completed houses or should the measure of the tax be the cost of the materials used to construct the houses?

Two different exemption provisions must be considered in answering your first question. Section (k) of Amendment 373, Constitution of Alabama 1901, exempts from ad valorem taxation "all stocks of goods, wares and merchandise." This exemption normally applies to the inventory of a retail seller. It appears from your request that the Taxpayer in question may be both a manufacturer and a retail seller of the houses that it manufactures. The display houses, until such time as they are sold and permanently affixed to the realty, may be considered personal property. As such, they may be considered to be stocks of goods, wares and merchandise. Whether the display houses are in fact stocks of goods, wares and merchandise depends upon whether they are held for sale by the builder while they are on display. This constitutes a question of fact which must be determined by you. Stocks of goods, wares and merchandise generally mean the goods or chattels which a merchant holds for sale, Swift and Company v. Tempelos, 101 S.E. 8, 178 N.C. 487, 7 A.L.R. 1581, and does not generally include fixtures, Boise Ass'n of Credit Men v. Ellis, 144 P. 6, 26 Idaho 438. If you determine that the display houses are held for sale, then they are exempt under section (k) of Amendment 373.

Section 40-9-1(14), Code of Alabama 1975, exempts from taxation "all articles manufactured in Alabama, including pig iron, in the hands of the producer or manufacturer thereof, for twelve months after its production or manufacture". This office has previously held that rough green lumber produced by a taxpayer from timber owned by it may be exempt as a manufactured article. Quarterly Report of the Attorney General, Vol. 27, page 108. It appears that the display houses, which are manufactured by the Taxpayer, are exempt for twelve months after their manufacture, so long as they are held by the manufacturer.

In answer to your second question, if you determine that the display houses should be taxed, then they must be taxed at their fair market value as completed houses, Quarterly Report of the Attorney General, Vol. 20, pages 265, 317.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

By-



RON BOWDEN
Assistant Attorney General

RB:je